

FIRST REGULAR SESSION

SENATE BILL NO. 409

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

Read 1st time February 23, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2034S.011

AN ACT

To repeal sections 260.273, 260.275, and 260.276, RSMo, and to enact in lieu thereof three new sections relating to scrap tires.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 260.273, 260.275, and 260.276, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 260.273,
3 260.275, and 260.276, to read as follows:

260.273. 1. Any person purchasing a new tire may present to the seller
2 the used tire or remains of such used tire for which the new tire purchased is to
3 replace.

4 2. A fee for each new tire sold at retail shall be imposed on any person
5 engaging in the business of making retail sales of new tires within this
6 state. The fee shall be charged by the retailer to the person who purchases a tire
7 for use and not for resale. Such fee shall be imposed at the rate of fifty cents for
8 each new tire sold. Such fee shall be added to the total cost to the purchaser at
9 retail after all applicable sales taxes on the tires have been computed. The fee
10 imposed, less six percent of fees collected, which shall be retained by the tire
11 retailer as collection costs, shall be paid to the department of revenue in the form
12 and manner required by the department of revenue and shall include the total
13 number of new tires sold during the preceding month. The department of revenue
14 shall promulgate rules and regulations necessary to administer the fee collection
15 and enforcement. The terms "sold at retail" and "retail sales" do not include the
16 sale of new tires to a person solely for the purpose of resale, if the subsequent
17 retail sale in this state is to the ultimate consumer and is subject to the fee.

18 3. The department of revenue shall administer, collect and enforce the fee

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 authorized pursuant to this section pursuant to the same procedures used in the
20 administration, collection and enforcement of the general state sales and use tax
21 imposed pursuant to chapter 144, RSMo, except as provided in this section. The
22 proceeds of the new tire fee, less four percent of the proceeds, which shall be
23 retained by the department of revenue as collection costs, shall be transferred by
24 the department of revenue into an appropriate subaccount of the solid waste
25 management fund, created pursuant to section 260.330. **The unexpended**
26 **balance in the solid waste management fund, and any subaccounts**
27 **thereto, at the end of each fiscal year shall not be transferred to the**
28 **general revenue fund of the state treasurer, and shall be invested to**
29 **generate income to the fund. The provisions of section 33.080, RSMo,**
30 **relating to the transfer of funds to the general revenue fund of the state**
31 **by the state treasurer shall not apply to the solid waste management**
32 **fund. Interest earned by moneys in the subaccounts shall be retained**
33 **in the subaccounts.**

34 4. Up to five percent of the revenue available may be allocated, upon
35 appropriation, to the department of natural resources to be used cooperatively
36 with the department of elementary and secondary education for the purposes of
37 developing **environmental educational materials**, programs, and curriculum
38 [pursuant to section 260.342] **that assist in the department of natural**
39 **resources' implementation of sections 260.200 to 260.345.**

40 5. Up to [twenty-five] **fifty** percent of the moneys received pursuant to
41 this section may, upon appropriation, be used to administer the programs
42 imposed by this section. Up to [five] **forty-five** percent of the moneys received
43 under this section may, upon appropriation, be used for the grants authorized in
44 subdivision (2) of subsection 6 of this section [and authorized in section 260.274].
45 All remaining moneys shall be allocated, upon appropriation, for the projects
46 authorized in section 260.276, except that any unencumbered moneys may be
47 used for public health, environmental, and safety projects in response to
48 environmental **or public health emergencies and threats** as determined by the
49 director.

50 6. The department shall promulgate, by rule, a statewide plan for the use
51 of moneys received pursuant to this section to accomplish the following:

- 52 (1) Removal of [waste] **scrap** tires from illegal tire dumps;
53 (2) Providing grants to persons that will use products derived from
54 [waste] **scrap** tires, or used [waste] **scrap** tires as a fuel or fuel supplement; and

55 (3) Resource recovery activities conducted by the department pursuant to
56 section 260.276.

57 7. The fee imposed in subsection 2 of this section shall begin the first day
58 of the month which falls at least thirty days but no more than sixty days
59 immediately following August 28, 2005, and shall terminate January 1, [2010]
60 **2020**.

61 [8. By January 1, 2009, the department shall report to the general
62 assembly a complete accounting of the tire cleanups completed or in progress, the
63 cost of the cleanups, the number of tires remaining, the balance of the fund, and
64 enforcement actions completed or initiated to address waste tires.]

260.275. 1. Each operator of a scrap tire site shall ensure that the area
2 is properly closed upon cessation of operations. The department of natural
3 resources may require that a closure plan be submitted with the application for
4 a permit. The closure plan, as approved by the department, shall include at least
5 the following:

6 (1) A description of how and when the area will be closed;

7 (2) The method of final disposition of any scrap tires remaining on the site
8 at the time notice of closure is given to the department.

9 2. The operator shall notify the department at least ninety days prior to
10 the date he expects closure to begin. No scrap tires may be received by the scrap
11 tire site after the date closure is to begin.

12 3. The permittee shall provide a financial assurance instrument in such
13 an amount and form as prescribed by the department to ensure that, upon
14 abandonment, cessation or interruption of the operation of the site, an approved
15 closure plan is completed. The amount of the financial assurance instrument
16 shall be based upon the current costs of similar cleanups using data from actual
17 scrap tire cleanup project bids received by the department to remediate scrap tire
18 sites of similar size. If scrap tires are accumulated at a solid [scrap
19 management] **waste disposal** area, the existing **closure** financial assurance
20 instrument filed for the solid [scrap] **waste disposal** area may be applied to the
21 requirements of this section. Any interest that accrues to any financial assurance
22 instrument established pursuant to this section shall remain with that
23 instrument and shall be applied against the operator's obligation under this
24 section until the instrument is released by the department. The director shall
25 authorize the release of the financial assurance instrument after the department
26 has been notified by the operator that the site has been closed, and after

27 inspection, the department approves closure of the scrap tire site.

28 4. If the operator of a scrap tire site fails to properly implement the
29 closure plan, the director shall order the operator to implement such plan, and
30 take other steps necessary to assure the proper closure of the site pursuant to
31 section 260.228 and this section.

 260.276. 1. The department of natural resources shall, subject to
2 appropriation, conduct resource recovery or nuisance abatement activities
3 designed to reduce the volume of scrap tires or alleviate any nuisance condition
4 at any site if the owner or operator of such a site fails to comply with the rules
5 and regulations authorized under section 260.270, or if the site is in continued
6 violation of such rules and regulations. The department shall give first priority
7 to cleanup of sites owned by persons who present satisfactory evidence that such
8 persons were not responsible for the creation of the nuisance conditions or any
9 violations of section 260.270 at the site.

10 2. The department may ask the attorney general to initiate a civil action
11 to recover from any persons responsible the reasonable and necessary costs
12 incurred by the department for its nuisance abatement activities and its legal
13 expenses related to the abatement; except that in no case shall the attorney
14 general seek to recover cleanup costs from the owner of the property if such
15 person presents satisfactory evidence that such person was not responsible for the
16 creation of the nuisance condition or any violation of section 260.270 at the site.

17 3. The department shall allow any person, firm, corporation, state agency,
18 charitable, fraternal, or other nonprofit organization to bid on a contract for each
19 resource recovery or nuisance abatement activity authorized under this
20 section. The contract shall specify the cost per tire for delivery to a registered
21 scrap tire processing or end-user facility, and the cost per tire for processing. The
22 recipient or recipients of any contract shall not be compensated by the
23 department for the cost of delivery and the cost of processing for each tire until
24 such tire is delivered to a registered scrap tire processing or end-user facility and
25 the contract recipient has provided proof of delivery to the department. [Any
26 charitable, fraternal, or other nonprofit organization which voluntarily cleans up
27 land or water resources may turn in scrap tires collected in the course of such
28 cleanup under the rules and regulations of the department.]

29 **4. Subject to the availability of funds, any charitable, fraternal,**
30 **or other nonprofit organization which voluntarily cleans up land or**
31 **water resources may be eligible for reimbursement for the disposal**

32 costs of scrap tires collected in the course of such cleanup under the
33 rules and regulations of the department. Also, subject to the
34 availability of funds, any municipal or county government which
35 voluntarily cleans up scrap tires from illegal dumps, not incidental to
36 normal governmental activities or resulting from tire collection events,
37 may also be eligible for the reimbursement authorized under this
38 subsection.

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Bill

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